IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

Bail Appl..No. 5763 of 2007()

CRIME 462/07 OF CHERPU POLICE STATION

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PETITIONER

SURYA PRAMUGHAN,S/O. KESAVAN,
THAIVALAPPIL HOUSE,PAZHAVIL PO,THRISSUR.

BY ADV. SRI.A.N.RAJAN BABU
SRI.P.GOPALAKRISHNAN

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
CHERPU,THRISSUR.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5763 of 2007

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Dated this the 24th day of September, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations of theft punishable under Section 379 I.P.C. The bone of contention is that three teak trees have been cut and removed by the petitioner. According to the petitioner, these trees stood in his property and in cutting and removing the same he has not committed any offence punishable under Section 379 I.P.C. The teak trees have already been seized. There is absolutely no necessity to subject the petitioner to the trauma of undeserved arrest and detention. The teak trees do not at all belong to the Government or any others. In these circumstances directions under Section 438 Cr.P.C. may be issued in favour of the petitioner, prays the learned counsel.

2. The learned Prosecutor submits that there was an attempt to measure out the property on 16.8.07. It was found that the trees stand, as per the measurement, in the land belonging to the Government. The petitioner had thereafter cut and removed the trees.

This in short is the allegation. Investigation is going on. The petitioner apprehends imminent arrest.

3. The learned counsel for the petitioner prays, the learned Prosecutor does not oppose the said prayer and I am satisfied that the petitioner can be granted anticipatory bail, subject to appropriate terms and conditions. In coming to this conclusion I do take note of the fact that the soul of the dispute between the parties is about the possession of the land, in which the trees stood. Even going by the prosecution version, it was on 16.8.07 that the property was identified to be that belonging to the Government, though within the boundary of the petitioner.

4. I am satisfied that this is a fit case, where the petitioner can be granted anticipatory bail, subject to appropriate conditions. The complicated dispute as to who was in possession on the relevant date can be decided in the course of investigation/trial.

5. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 1.10.2007 at 11 a.m. The learned Magistrate shall release the petitioner on

regular bail on condition that he executes a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 2.10.07, and 3.10.2007 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 1.10.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 1.10.2007 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.50,000/- without any surety undertaking to appear before the learned Magistrate on 1.10.2007.

(R. BASANT)
Judge

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